

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

WILLIAM BILLY GENE CARTER,)
)
Petitioner,)
)
v.) No. 4:12CV2159 HEA
)
)
MARTHA MARTIN,)
)
Respondent.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on petitioner's combined motion for appointment of counsel and to amend his petition. The motion will be denied without prejudice.

There is no constitutional or statutory right to appointed counsel in civil cases.

Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005. After considering these factors,

the Court finds that the facts and legal issues involved are not so complicated that the appointment of counsel is warranted at this time.

To obtain leave to file an amended petition, “a party must submit the proposed amendment along with its motion.” Clayton v. White Hall School Dist., 778 F.2d 457, 460 (8th Cir. 1985); see Wolgin v. Simon, 722 F.2d 389, 395 (8th Cir.1983) (“Absent some indication as to what might be added to the complaint to make it viable, the [moving party] is not entitled to leave to amend.”). Petitioner has not submitted an amended petition along with his motion to amend. As a result, the Court will deny the request without prejudice.

Accordingly,

IT IS HEREBY ORDERED that petitioner’s combined motion for appointment of counsel and to amend his petition [ECF No. 22] is **DENIED** without prejudice.

IT IS FURTHER ORDERED that if petitioner wishes to file an amended petition, he must file a motion to amend along with a proposed amended petition within twenty-one (21) days of the date of this Order.

Dated this 25th day of June, 2013.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE